

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

UNITED STATES OF AMERICA

v.

Case No. 8:03-CR-77-T-30TBM

**SAMI AMIN AL-ARIAN
HATEM NAJI FARIZ**

**DEFENDANTS' RESPONSE TO THE COURT'S ORDER REQUESTING ANY
CHANGES TO THE JURY QUESTIONNAIRE**

Defendants, Sami Amin Al-Arian and Hatem Naji Fariz, by and through undersigned counsel, hereby respectfully submit their proposed changes to the Jury Questionnaire, in response to this Court's Order of January 13, 2006 (Doc. 1493). The defense would respectfully request leave of the Court to file any objections to the government's proposed changes to the Jury Questionnaire by Thursday, February 2, 2006.

General Instructions

The defense would request that the Court amend the third paragraph, beginning with "The case for which you are being questioned....," to read (the changes are in italics):

In this case there are *two* defendants against whom the government *is going to try on* charges of having been part of a conspiracy to commit various acts of racketeering, *conspiring to provide material support to designated terrorists, and other federal crimes.*

Hardship question

One issue that arose in the first trial was whether the jurors would receive lunch during the trial, and it was determined that they would not. This reference may therefore need to be removed.

The Defendants would further note that the trial in this matter may again last approximately six months and would therefore request that this reference be maintained in the jury questionnaire.

Question 25

The defense would request that “(e.g., *churches, synagogues, temples, mosques, etc.*)” be inserted following “religious organizations” to clarify the question.

Question 38

There are additional government personnel who may need to be added to this list, including Alexis L. Collins, Trial Attorney, U.S. Department of Justice; Charlotte Braziel, Agent, Federal Bureau of Investigation; Chris Griffiths, Paralegal, U.S. Department of Justice; and any others as appropriate.

Question 39

The following attorneys should be removed: Stephen Bernstein and Bruce G. Howie. Depending on the Court’s ruling, different counsel for Dr. Al-Arian may also need to be listed.

Question 40

Sameeh Hammoudeh and Ghassan Zayed Ballut should be removed from this question.

Question to be Inserted Following Question 40

The defense would ask that the jury questionnaire include the following:

Do you or does any relative or close friend know or have any connection with any of the following potential witnesses in this case:

[Insert names from witness list]

- (a) If you answered yes to any of the names above, describe your connection to this/these individual(s).

Question 42

The defense would request that the question be amended as follows:

“Have you seen, read, or heard anything about Dr. Sami Al-Arian *or Hatem Fariz defendants in this case, or Mazen Al Najjar...*”

Questions to be inserted after Question 42

The defense would request that the following questions concerning the first trial in this matter be inserted after Question 42:

1. Did you read, hear, or see anything about the first trial in this case?

Yes _____ No _____ If Yes:

- (a) What did you read, see, or hear?

- (b) What newspapers, television stations, or radio stations did you follow for information on this case?
- (c) What were your reactions and impressions based on what you saw or heard?
- (d) What were any impressions of the media that you had as a result of the coverage?
- (e) What was your impression of Dr. Al-Arian as a result of the coverage?
- (f) What was your impression of Hatem Fariz as a result of the coverage?
- (g) Did this coverage of the first trial in any way change your impression of Dr. Al-Arian? If yes, how?

2. Are you familiar with the verdicts in the first trial in this case?

Yes _____ No _____ If Yes:

- (a) What do you understand the verdicts were?
- (b) How did you become familiar with the verdicts?

- (c) What media reports have you seen or read about the verdicts in the first trial?
 - (d) What was your reaction to the verdicts?
- 3. What, if any, impressions did you arrive at as a result of the first trial?
- 4. Did the result of the first trial change in any way your earlier impression of Dr. Al-Arian? If so, in what way? Please explain.
- 5. Have you informed any impression of Hatem Fariz? If so, please explain.
- 6. Did you read in the media any comments made by jurors who sat on the first trial?
 - (a) If so, what did you see or hear?
 - (b) What were your impressions or reactions?
- 7. Did you read or hear any comments made by the government, including any prosecutors, regarding the outcome of the first trial?
 - (a) If so, what did you hear or read?

(b) What were your impressions or reactions concerning what you read or heard?

8. Did you read or hear any comments made by any defense lawyers regarding the outcome of the first trial?

(a) If so, what did you hear or read?

(b) What were your impressions or reactions concerning what you read or heard?

9. Please describe the emotion you felt most strongly when you learned that Dr. Al-Arian was not convicted of any crimes in the first trial.

10. Please describe your reaction when you learned that Hatem Fariz was not convicted of any crimes in the first trial.

11. What is your reaction to the government's decision to retry Dr. Al-Arian?

12. What is your reaction to the government's decision to retry Mr. Fariz?

13. Is there anything about the first trial and its outcome that would make it difficult for you to be fair and impartial in this case and reach a verdict based only on the evidence presented at trial?

Yes _____ No _____ If Yes, please explain:

Question 45

The defense would request that this question be amended to state “past” rather than “recent” coverage.

Question to be inserted after Question 46

The defense would request the addition of the following question, based on the media coverage of Mr. Hammoudeh’s detention pending removal:

Have you seen, read or heard anything concerning Sameeh Hammoudeh’s immigration case? If so, what were your reactions or impressions based on what you read or heard?

Questions to be inserted after Question 50

Based on what you have read or heard, do you have any opinion or beliefs about the case because of the Court’s rulings during the first trial?

Yes _____ No _____ If Yes, please explain:

Based on what you have read or heard, do you have any opinion or beliefs about the case because of the Court’s rulings since the first trial?

Yes _____ No _____ If Yes, please explain:

Question 51

The defense would request that this question be amended to read:

... Accordingly, the Court will be *instructing* you periodically that you must *not read* about the case in the newspapers or *listen* to any radio or television reports about the case. The Court will also *instruct* you periodically that you must *not discuss* this case with friends or family during the course of the trial....

The defense respectfully requests that the Court (1) amend the Jury Questionnaire as detailed above and (2) permit the defense to file any objections to the government's proposed changes to the Jury Questionnaire by Thursday, February 2, 2006.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of January, 2006, a true and correct copy of the foregoing has been furnished by CM/ECF, to Walter Furr, Assistant United States Attorney; Terry Zitek, Assistant United States Attorney; Cherie L. Krigsman, Trial Attorney, U.S. Department of Justice; and to Alexis L. Collins, Trial Attorney, U.S. Department of Justice.

/s/ M. Allison Guagliardo
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Assistant Federal Public Defender